

# BRADLEY MURCHISON KELLY & SHEA LLC

SHREVEPORT | NEW ORLEANS | BATON ROUGE

BRADLEYFIRM.COM

David R. Taggart

Partner

Shreveport

Direct: (318) 534-4014

dtaggart@bradleyfirm.com

December 12, 2013

**VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED TO ALL**

Ms. Gina McCarthy, Administrator  
Environmental Protection Agency  
1200 Pennsylvania, N.W.  
Washington, DC 20460

Mr. Ron Curry, Regional Administrator  
U.S. EPA Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202

Honorable Eric Holder,  
Attorney General, United States of America  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Honorable Teresa Marks, Director  
Arkansas Department of Environmental  
Quality  
5301 Northshore Drive  
North Little Rock, AR 72118

Mr. David Stickler,  
Senior Managing Director  
Big River Steel, LLC  
2027 E. State Highway 18  
Osceola, AR 73207

Governor Mike Beebe  
State Capitol Room 250  
Little Rock, AR 72201

2013 DEC 19 PM 2:23  
OFFICE OF THE  
EXECUTIVE SECRETARIAT  
FR

Re: Notice of Intent to File Citizen Suit Against Administrator McCarthy for Failure to Grant or Deny a Petition to Object to Proposed Title V Operating Permit No. 2305-AOP-R0 issued to Big River Steel, LLC, as Required Under 42 U.S.C. § 7661d(b)(2)

Dear Administrator McCarthy:

Pursuant to the Clean Air Act § 304(b), 42 U.S.C. § 7604(b), this correspondence provides notice that Nucor Steel-Arkansas, a division of Nucor Corporation ("NSA") and Nucor-Yamato Steel Company ("NYS") (collectively referred to herein as "Nucor") intend to file a citizen suit against Administrator McCarthy and the Environmental Protection Agency (collectively referred to herein as "EPA") under the Clean Air Act § 304(a)(2), 42 U.S.C. § 7604(a)(2) for failure to grant or deny the petition ("Petition") which was submitted by Nucor on October 9, 2013.

Nucor filed the Petition under 42 U.S.C. § 7661d(b)(2), which allows any person to petition the EPA to object to an air permit issued pursuant to Title V of the Clean Air Act, if the EPA has not already objected to the permit within its 45-day period to review such permits. The Petition called on the EPA to object to the Title V Operating Permit (No. 2305-AOP-R0) that the

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Arkansas Department of Environmental Quality ("ADEQ") issued on June 25, 2013, to Big River Steel, LLC, for the construction and operation of a steel mill located in Osceola, Arkansas.

Nucor hand delivered the Petition to the EPA on October 10, 2013 because delivery via certified mail was not possible due to the federal government shutdown. The EPA had until December 10, 2013 to respond to the Petition. The EPA's failure to grant or deny the Petition within the 60-day period provided by 42 U.S.C. § 7661d(b)(2), constitutes a failure to perform a non-discretionary act. Such a failure is actionable under the Clean Air Act, § 304(a)(2), 42 U.S.C. § 7604(a)(2) which provides that "any person may commence a civil action on his own behalf . . . (2) against the Administrator where there is alleged a failure of the Administrator to perform any act or duty under this chapter which is not discretionary."

Nucor intends to file suit in either the U.S. District Court for the Eastern District of Arkansas or the U. S. District Court for the District of Columbia following the expiration of 60 days from the postmark date of this notice letter to enforce the EPA's duty to respond to the Petition under 40 C.F.R. § 54.2(d).

The full name and address of the parties giving this notice, through their undersigned counsel, are as follows:

Nucor Steel-Arkansas, a Division of Nucor Corporation  
7301 E. Country Road 142  
Blytheville, AR 72315  
(870) 762-2100

Nucor-Yamato Steel Company  
5929 E. State Highway 18  
Armored, AR 72315  
(870) 762-5500

If you would like to discuss any portion of this Notice or a proposal for the resolution of the issues discussed above, please feel free to contact the undersigned.

Yours very truly,

BRADLEY MURCHISON KELLY & SHEA LLC

By:   
David R. Taggart

DRT/nwm

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cc: Mr. Steven J. Rowlan  
Mr. Jeffrey D. Braun  
Mr. Jerald N. Jones  
Mr. Mark H. Allison  
(All via PDF email)

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KELLY & SHEA LLC

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Route **EPA Mail**

To: McCarthy, Gina

Mailstop ARIEL RIOS NORTH

Department: 1101A

Certified



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**CERTIFIED MAIL™**



7012 2210 0000 5054 2690

DEC 19 2013

Ms. Gina McCarthy, Administrator  
Environmental Protection Agency  
1200 Pennsylvania, N.W.  
Washington, DC 20460



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